

REMARKS

Entry of the foregoing amendments is respectfully requested.

Summary of Amendments

By the foregoing amendments claims 3 and 24 are amended and claim 41 is added. Claims 3-41 are pending in this application, with claims 3 and 24 being independent claims. Claims 8, 9, 12-14, 23, 30 and 33-35 are indicated to be withdrawn from consideration.

The amendments to claims 3 and 24 replace the generic term "purines" by specific purine compounds recited in the present specification.

New claim 41 finds support, *inter alia*, on page 7 of the present application.

It is pointed out that the present amendments are without prejudice and disclaimer, and Applicants expressly reserve the right to prosecute the subject matter of the unamended claims in one or more divisional and/or continuation applications.

Summary of Office Action

As an initial matter, Applicants note with appreciation that a signed and initialed copy of the Form PTO-1449 submitted in the Information Disclosure Statement filed October 6, 2004 has been returned together with the present Office Action. However, the present Office Action fails to acknowledge the claim for priority under 35 U.S.C. § 119(a)-(d) and (f) and receipt of a copy of the certified copy of the priority document from the International Bureau. Accordingly, Applicants respectfully request that the claim for priority

and receipt of a copy of the certified copy of the priority document be acknowledged in the next communication from the Patent and Trademark Office.

Applicants further note with appreciation that claims 10, 11, 31 and 32 are indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In this regard, Applicants respectfully submit that it appears that the Examiner intended to indicate claim 33 instead of claim 31 to be allowable. Specifically, claim 33 is the method counterpart of composition claim 11 (indicated to be allowable on principle) whereas method claim 31 is drawn to a method involving thymine (i.e., a pyrimidine) and thus would appear to be withdrawn from consideration (as is its composition counterpart, claim 9).

The Restriction Requirement is made final and claims 8, 9, 12-14, 23, 30 and 33-35 are indicated to be withdrawn from consideration. In this regard, Applicants respectfully submit that for the reasons set forth in the preceding paragraph, it appears that the Examiner intended to withdraw claim 31 instead of claim 33 from consideration. The status identifiers of the claims submitted herewith have been adjusted correspondingly by identifying claim 31 as “withdrawn” and claim 33 as “previously presented”.

Claims 3-7, 16, 20, 22, 24-29, 36 and 39 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,998,423 to Manneth et al. (hereafter “MANNETH”).

Claims 3-7, 15-22, 24-29, and 36-40 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over MANNETH in view of Harry’s Cosmetology, pages 431-432.

Response to Office Action

Reconsideration and withdrawal of the rejections of record are respectfully requested in view of the foregoing amendments and the following remarks.

Response to Rejection of Claims under 35 U.S.C. § 102(b)

Claims 3-7, 16, 20, 22, 24-29, 36 and 39 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated MANNETH. In this regard, the rejection essentially asserts that MANNETH discloses compositions and methods for stimulating melanin production in hair, which compositions and methods involve xanthines.

This rejection is respectfully traversed. In particular, Applicants point out that amended independent claims 3 and 24 do not recite any xanthines, but merely compounds which are neither disclosed nor suggested by MANNETH, i.e., pyrimidines and the purines: purine, adenine, guanine, hypoxanthine, purinethiol, 6-thioguanine and cytokinins, none of which appear to be encompassed by the general formula of xanthines depicted in Fig. 1 of MANNETH and specifically referred to in the rejection.

Applicants respectfully submit that at least for the foregoing reasons the rejection of claims 3-7, 16, 20, 22, 24-29, 36 and 39 under 35 U.S.C. § 102(b) is unwarranted and should be withdrawn, which action is respectfully requested.

Response to Rejection of Claims under 35 U.S.C. § 103(a)

Claims 3-7, 15-22, 24-29, and 36-40 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over MANNETH in view of Harry's Cosmetology, pages 431-432. In this regard, the rejection acknowledges that MANNETH does not teach that the

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compositions disclosed therein contain an antioxidant and/or are in the form of a shampoo, hair rinse or shower bath, but alleges that shower baths are in the form of gels and hair conditioners and shampoos are in the form of solutions, pointing to col. 5, lines 60-65 of MANNETH in this regard. The Office Action also alleges that the secondary reference teaches antioxidants as additives for shampoos. In view of these allegations, the Examiner takes the position that it would allegedly have been obvious to one of ordinary skill in the art to provide the compositions and methods of the rejected claims.

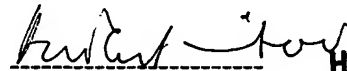
This rejection is respectfully traversed as well. As pointed out above with respect to the rejection of the claims under 35 U.S.C. § 102(b), MANNETH does not teach or suggest any of the compounds that are recited in the present claims. Harry's Cosmetology, pages 431-432 does not cure this deficiency of MANNETH. In fact, this document discloses merely customary ingredients of shampoos, but does not teach or suggest any ingredients for intensifying natural hair color and/or stimulating melanogenesis in human hair, let alone any of the compounds recited in the present claims.

For at least the reasons set forth above, claims 3-7, 15-22, 24-29, and 36-40 are not rendered obvious by the cited documents. Accordingly, withdrawal of the rejection of claims 3-7, 15-22, 24-29, and 36-40 under 35 U.S.C. § 103(a) is warranted as well and respectfully requested.

CONCLUSION

In view of the foregoing, it is believed that all of the claims in this application are in condition for allowance, which action is respectfully requested. If any issues yet remain which can be resolved by a telephone conference, the Examiner is respectfully invited to contact the undersigned at the telephone number below.

Respectfully submitted,
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